

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

RUSSELL M. HAMILTON,	)	
Complainant,	)	
	)	8 U.S.C. § 1324b Proceeding
v.	)	Case No. 97B00150
	)	
THE RECORDER,	)	
Respondent.	)	

**ORDER RATIFYING ORDER GRANTING RESPONDENT'S  
REQUEST FOR ATTORNEY'S FEES  
(November 24, 1997)**

This Order issues pursuant to 28 C.F.R. § 68.52(c)(4).

On October 6, 1997, I issued the Final Decision and Order Granting Respondent's Motion to Dismiss in *Hamilton v. The Recorder*, 7 OCAHO 968 (1997). That disposition of the case on its merits scheduled post-decision procedures:

In view of the result in this case, to augment its Motion for attorney's fees, *The Recorder* may **by October 27, 1997**, provide in affidavit form, its attorney's resume, a summary of time expended, tasks performed, fees and expenses charged; and a brief description of Boston, MA, market rates for legal services at the level of the practitioner . . . By **November 7, 1997**, Hamilton may respond to *The Recorder's* request for and calculation of attorney's fees.

*Id.* at 11. Respondent's deadline was October 27, 1997; Hamilton's, November 7, 1997.

By facsimile dated October 27, 1997, Respondent transmitted its Affidavit in Support of Motion for Attorney's Fees (Affidavit), augmented by exhibits in support. Respondent's Affidavit alluded to fees expended for the services of three tax and employment attorneys, **in addition** to those paid counsel Gail A. Goolkasian (Goolkasian).

Because it was "unclear from the Affidavit and Motion whether Respondent [sought] . . . compensation for the services of all four attorneys," by Order dated October 27, 1997, I invited Respondent to file by November 21, 1997 "supporting documentation" for the three attorneys other than Goolkasian, and extended the time for Complainant to respond to December 5, 1997. By facsimile filing dated November 4, 1997, Respondent *declined* to file a submission for fees

for the three other attorneys and affirmed that it only sought attorney's fees and expenses for Goolkasian's work, as documented in its Affidavit.

[T]he Respondent seeks contribution only for the fee for . . . [Goolkasian's] services . . . [In alluding to services provided by the three other attorneys] I simply wanted to note in my affidavit that other attorneys . . . also devoted time to this matter for which Respondent was charged; however, Respondent does not seek compensation for their services. . . .

On November 17, 1997, I issued an Order Granting Respondent's Request for Attorney's Fees, 7 OCAHO 978, which noted *inter alia* that, although invited to do so by the October 6, 1997 Final Decision and Order, Complainant "does not question the reasonableness of either the time set forth or the hourly rates claimed in Respondent's Application."

Later that same day, November 17, 1997, Complainant filed a pleading described as Complainant's Reply to Respondent's Affidavit in Support of Motion for Attorney's Fees & Judges [sic] Order [of October 29, 1997]. Complainant erroneously failed to recognize that the extension of time provided in the October 29, 1997 Order would have been effective *only if* Respondent had sought attorney's fees and expenses other than those of Goolkasian.

Accordingly, Complainant's present filing is untimely. Just as importantly, nothing in the new filing addresses the *amount* of attorney's fees. Instead, Complainant reiterates argumentation on the merits, a subject foreclosed by the Final Decision and Order.

This Order ratifies the Order issued November 17, 1997.

SO ORDERED.

Dated and entered this 24th day of November, 1997.

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Marvin H. Morse  
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the attached Order Ratifying Order Granting Respondent's Request for Attorney's Fees were mailed postage prepaid this 24th day of November, 1997, addressed as follows:

Complainant's Representative

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